

EXHIBIT

I

CONFIDENTIAL

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 1:17-cv-00854-TDS-LPA

REBECCA KOVALICH and SUZANNE)
NAGELSKI,)
)
Plaintiffs,)
)
vs.)
)
PREFERRED PAIN MANAGEMENT & SPINE)
CARE, P.A., DR. DAVID SPIVEY,)
individually, and SHERRY SPIVEY,)
individually,)
)
Defendants.)
)

30(b)(6) DEPOSITION

OF

PREFERRED PAIN MANAGEMENT & SPINE CARE, P.A.

By and Through Its Representative

WENDY YONTZ

VOLUME I

At Winston-Salem, North Carolina

Tuesday, August 28, 2018

REPORTER: ELAINE F. HAYES
Notary Public

REED & ASSOCIATES
2401 Whirlaway Court
Matthews, NC 28105
980-339-3575

1 MR. HERRMANN: Yeah, Exhibit 28, first page.

2 Q. Was Lisa Palmer part of the reorganization?

3 A. Yes.

4 Q. When we're saying "the reorganization," are we
5 talking about one reorganization, or were there more
6 reorganizations with the company?

7 A. During my time, it's been ongoing.

8 Q. And did that predate you as well?

9 A. Yes.

10 Q. [REDACTED]

11 [REDACTED]

12 A. Correct.

13 Q. [REDACTED]

14 termination?

15 A. Dr. Spivey, myself, Sherry Spivey, and Mary Benton
16 was consulted.

17 Q. [REDACTED]

18 reorganization?

19 A. Her workload could be handled by someone else. It
20 wasn't enough for a full-time position.

21 Q. [REDACTED]

22 reorganization?

23 A. Yes.

24 Q. Who were the decision-makers?

25 A. Myself, Dr. Spivey, Brandi Frey, and Mary Benton was

1 consulted.

2 Q. And why was she selected?

3 A. There was not enough of the procedures that she
4 precerted to justify a full-time position.

5 Q. [REDACTED]

6 A. Yes.

7 Q. Who were the decision-makers?

8 A. Myself, Dr. Spivey, Sherry Spivey, and Mary Benton
9 was consulted.

10 Q. And why was she selected?

11 A. The position did not require a full-time position.

12 Q. And what were some of the specifics with her?

13 A. Making the patient reminder calls.

14 Q. [REDACTED]

15 A. No.

16 Q. Who were the decision-makers?

17 A. Myself and Dr. Spivey.

18 Q. Why was she terminated?

19 A. She had multiple complaints and performance issues.

20 Q. [REDACTED]

21 reorg?

22 A. Yes.

23 Q. Who were the decision-makers?

24 A. Brandi Frey, myself, and Dr. Spivey.

25 Q. And why was she selected?

1 A. There wasn't enough in her job description to fulfill
2 a full-time position.

3 Q. What was her job description?

4 A. She did precertifications.

5 Q. Was that all she did?

6 A. Yes.

7 Q. [REDACTED]
8 reorganization?

9 A. Yes.

10 Q. Who were the decision-makers?

11 A. Brandi Frey, myself, Dr. Spivey, and Mary Benton was
12 consulted.

13 Q. And why was she selected?

14 A. There wasn't enough to fulfill a full-time position.

15 Q. [REDACTED]
16 of the reorg?

17 A. Yes.

18 Q. And who were the decision-makers?

19 A. Dr. Spivey, Sherry Spivey, myself, and Mary Benton
20 was consulted.

21 Q. What input did Mrs. Spivey have?

22 A. She was really there just to be made aware that this
23 was going to occur.

24 Q. [REDACTED]

25 A. We eliminated the position.

1 Q. What was she doing at the time of her termination?

2 A. She was IT and HIPAA.

3 Q. Was that all she was doing?

4 A. At the time of termination, yes.

5 Q. And IT and HIPAA, were those roles completely
6 eliminated at the time of her termination?

7 A. The IT, we have a company that handles our computers.
8 The HIPAA, I share that responsibility with another
9 employee we're training.

10 Q. Who's the other employee that you share that with?

11 A. Maureen O'Sullivan.

12 Q. How long has Ms. O'Sullivan done that job?

13 A. I'll have to look at her file.

14 Q. That's fine.

15 MS. SMITH: Do you want her to do that now?

16 MR. HERRMANN: No.

17 MS. SMITH: Okay.

18 Q. Suzanne Nagelski, was her termination part of the
19 reorg?

20 A. Yes.

21 Q. And who were the decision-makers?

22 A. Dr. Spivey, Sherry Spivey, and Mary Benton was
23 consulted.

24 Q. And why was Ms. Nagelski chosen as part of the
25 reorganization?

1 employees?

2 A. It has went down.

3 Q. Do you know why?

4 A. There hasn't been a need for additional employees.

5 Q. Is it Tammie Harris-Groce?

6 A. Yes.

7 Q. All right. Let's talk about topic 2 a little bit.

8 Go back to the notice just to make sure we're on the
9 same page. For topic 2, you were asked to prepare to
10 testify about any trainings that you, meaning PPM,
11 provided regarding workplace discrimination,
12 harassment, and retaliation to anyone from
13 January 1, 2012, to the present. Is that correct?

14 A. Yes.

15 Q. And are you prepared to testify about that today?

16 A. Yes.

17 Q. All right. What I'll just ask in the beginning, and
18 maybe we'll switch this up, but if you have a list or
19 some record just kind of chronologically from
20 January 1st, 2012, or however you have it organized,
21 but kind of go through, you know, those various
22 trainings.

23 A. Okay. There is record of a Kristine Sims, who is an
24 employment law attorney, that came to the office to
25 do a harassment training. This information was

1 provided by Dr. Spivey, and it was for 2012.

2 Q. Do you know when in 2012?

3 A. I do not.

4 Q. You said that was on harassment?

5 A. Yes.

6 Q. What other trainings have happened between then and
7 the present?

8 A. There is nothing on record other than since my
9 employment with PPM. 2016 and 2017, there were
10 revisions of the handbook, and we go over that every
11 year and go through the harassment, discrimination,
12 and retaliation policy.

13 Q. All right. So there would have been a training on
14 the revisions to the handbook in 2016?

15 A. Yes. 2016 and 2017 as well.

16 Q. When did the 2016 training take place?

17 A. October.

18 Q. Who provided that training?

19 A. I did.

20 Q. Ms. Yontz, was that the first time you had provided
21 that sort of training in your career, or had you done
22 that previously?

23 A. I had done that previously.

24 Q. In prior jobs?

25 A. Yes.

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OF

PREFERRED PAIN MANAGEMENT & SPINE CARE, P.A.

By and Through Its Representative

WENDY YONTZ

VOLUME II

At Winston-Salem, North Carolina

Wednesday, August 29, 2018

REPORTER: ELAINE F. HAYES
Notary Public

REED & ASSOCIATES
2401 Whirlaway Court
Matthews, NC 28105
980-339-3575

1 and after a year of employment?

2 A. Yes.

3 Q. Tell me about vesting. If we need to get more
4 specific, we can, but for someone who's been there
5 for a year and is over 21 and participates -- well,
6 let me back up and ask another question.

7 So you've been there a year and you're over
8 21. What does a PPM employee need to do to
9 participate in the cash balance plan, if they meet
10 those preliminary qualifications that we just talked
11 about?

12 A. They do not have to do anything.

13 Q. It's automatic?

14 A. Yes.

15 Q. Okay. And once someone -- just so I'm clear, for any
16 employee who's been at PPM for a year and is over 21,
17 they automatically become part of the cash balance
18 plan, correct?

19 A. With 1,000 hours, so yes, even if they've been there
20 a year and it's less than 1,000 hours.

21 Q. And the 1,000-hour requirement is in the definition
22 of what it would mean to be there a year; is that
23 correct?

24 A. Yes.

25 Q. All right. Now, once someone is enrolled, what does

1 it take for that individual to vest -- in other
2 words, the money that they have in the plan vests to
3 them?

4 A. They're 100 percent vested after three years of
5 service.

6 Q. Those years of service are defined by 1,000 plus
7 hours, correct?

8 A. Correct.

9 Q. Can someone reach a year of service in less than
10 12 months? In other words, if someone does 1,000 --
11 how many hours of service? Sorry. 1,000?

12 A. 1,000.

13 Q. -- 1,000 hours in 10 months, would that count as a
14 year of service?

15 A. Yes.

16 Q. How do participants -- kind of from the beginning,
17 they automatically enroll. The money that goes into
18 the cash balance plan, how does that work? Do they
19 elect it? Does PPM elect the amount? Just tell me
20 about that.

21 A. PPM elects it.

22 Q. What is the election? In other words, how does that
23 work?

24 A. The company pays into the plan a percentage of what
25 the employee has earned.

1 Q. Today there was some testimony regarding the cash
2 balance plan, and I believe you were testifying about
3 groups 1, 2, 3, 4, and 5?

4 A. Yes.

5 Q. Do you know how those groups are referred to in the
6 plan?

7 A. A, B, C, D, E.

8 Q. Okay. So if someone is in group 1, do you know what
9 letter --

10 A. A.

11 Q. So group 1 is group A; group 2, group B --

12 A. Correct.

13 Q. -- et cetera, et cetera? Okay. As part of the
14 research into the cash balance plan, did you ask the
15 third-party administrator to calculate the amount of
16 benefit that Ms. Nagelski and Ms. Kovalich would have
17 been entitled to had they remained employed through
18 the end of 2016?

19 A. Yes.

20 Q. Can you tell me what that benefit would have been?

21 A. For Rebecca Kovalich, \$3,682.

22 Q. And what about for Ms. Nagelski?

23 A. \$5,193.

24 Q. So if they would have been enrolled in the plan
25 through the end of 2016, that would have been the

1 allocation as calculated by the third-party
2 administrator?

3 A. Correct.

4 MS. SMITH: Let's take just a quick break. I'm
5 almost done.

6 (Recess from 12:38 p.m. to 12:43 p.m.)

7 By Ms. Smith:

8 Q. I have just a few more questions, Ms. Yontz. Can you
9 tell me Scarlet Link's date of birth?

10 A. 

11 Q. So would she be younger than 65 years of age as of
12 today?

13 A. Yes.

14 Q. And do you know if Ms. Link has received a
15 distribution from the cash balance plan?

16 A. Yes.

17 Q. And are you an expert on the cash balance plan?

18 A. No.

19 Q. Okay. So your testimony today, was that to the best
20 of your abilities?

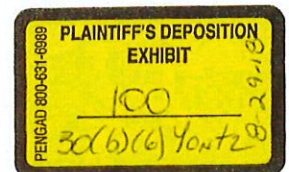
21 A. Yes.

22 Q. And so if there are provisions in the plan that might
23 differ from your testimony, is your testimony going
24 to be the best information about the provisions of
25 the plan or is the plan document going to be?

TOPIC 3 SUPPLEMENTAL INFORMATION

Defendant Preferred Pain Management & Spine Care, P.A. ("PPM") offers the following supplement to its 30(b)(6) deposition. The information provided is accurate to the best of PPM's knowledge at this time.

LAST NAME	FIRST NAME	HIRE DATE	HIRING DECISION MAKER(S)	METHOD OF FILLING POSITION	POSITION HIRED INTO	LOCATION OF POSITION
Adams	Jeffery	8/10/2015	Dr. Spivey	Referred by Dr. Scheutzow	MD	Both offices
Anderson	Angela	3/13/2016	Wendy Yontz and Brandi Frey	Referred by Wendy Yontz	Check out	Winston-Salem
Bailey	Jennifer	11/14/2012	Rebecca Kovalich	Information unavailable	Lab and Clinic	Winston-Salem
Baker	Heather	1/12/2016	Brandi Frey and Wendy Yontz	Referred by Rebecca Surratt, Rachelle Lowery, Kerri Jessup, and Brandi Thomas	Medical records	Winston-Salem
Barringer	Megan	6/6/2016	Brandi Frey and Wendy Yontz	Referred by Wendy Yontz	Check out	Greensboro



Barr-Poole	Sontara	6/7/2017	Betty Webb and Wendy Yontz	Referred by Shenika Brooks	Check out	Greensboro
Bost	Dana	7/26/2012	Vicki Swicegood, Rebecca Kovalich, and Amy Starnes	Information unavailable	Clinic	Winston-Salem
Brooks	Shenika	6/1/2017	Betty Webb and Wendy Yontz	Indeed	Front office	Greensboro
Brown	Jered	4/8/2013	Rebecca Kovalich and Dr. Spivey	Information unavailable	Lab	Greensboro
Campbell	Pamela	8/15/2017	Dr. Spivey and Wendy Yontz	Indeed	Physician Assistant	Greensboro
Cave	Megan	6/21/2016	Jamie Leonard and Wendy Yontz	Referred by Jamie Leonard and Medtronic	X-ray Tech	Both offices
Cole	Whitney	3/12/2013	Vicki Swicegood	Salem Solutions, LLC	Front office coordinator	Greensboro
Crawley	Christy	9/20/2013	Jamie Leonard	Referred by Jamie Leonard	Part time X-Ray Tech	Both offices

Curling	Otis	6/4/2012	Dr. Spivey and Rebecca Kovalich	Salem Solutions, LLC	MD	Both offices
Daniels	Chante'	5/15/2017	Wendy Yontz and Betty Webb	Indeed	Check out	Greensboro
Davis	Abbey	11/16/2015	Betty Webb and Lisa Palmer	Salem Solutions, LLC	Check in	Winston-Salem
Deskin	Patricia	8/11/2014	Dr. Spivey	Information unavailable	Nurse Practitioner	Both offices
Eldridge	Crystal	1/6/2014	Brandi Frey and Stephanie Vaughn	Information unavailable	Billing	Winston-Salem
Ellis	Whitney	8/2/2017	Donna Scott, Sherry Spivey and Wendy Yontz	Indeed	Clinic	Greensboro
Epperson	Susan	6/24/2013	Rebecca Kovalich and Vicki Swicegood	Information unavailable	Lab	Winston-Salem
Ernstes	Kathy	7/9/2013	Suzanne Nagelski, Susan Todd, and Vicki Swicegood	Information unavailable	Clinic	Winston-Salem

Evans	Sarah	5/5/2016	Wendy Yontz, Brandi Frey, and Sherry Spivey	Referred by Wendy Yontz	Medical records	Greensboro
Fowler	Tammy	11/16/2015	Betty Webb and Lisa Palmer	Salem Solutions, LLC	Front office	Winston-Salem
Frey	Brandi	6/24/2013	Vicki Swicegood, Annette Hempstead, Rebecca Kovalich, and Suzanne Nagelski	Indeed	Billing	Winston-Salem
Hargrove	Robert	1/12/2014	Rebecca Kovalich	Information unavailable	Lab part time	Greensboro
Hawks	Andria	7/17/2012	Vicki Swicegood, Rebecca Kovalich, and Suzanne Nagelski	Referred by Vicki Swicegood	Lab	Winston-Salem
Hinson	Brandy	5/4/2015	Lisa Palmer	Salem Solutions, LLC	Front office	Greensboro
Hodges	Billie	4/23/2012	Vicki Swicegood, Rebecca Kovalich, and Suzanne Nagelski	Salem Solutions, LLC	Scheduling	Winston-Salem

Huie	Melissa	5/10/2016	Brandi Frey, Dr. Scheutrow and Wendy Yontz	Salem Solutions, LLC	Medical records	Winston-Salem
Hulbert	Harry	2/15/2012	Dr. Spivey	Salem Solutions, LLC	Physician Assistant	Winston-Salem
Ingold	Cindy	8/17/2015	Betty Webb and Lisa Palmer	Salem Solutions, LLC	Check out	Winston-Salem
Jacobson	Michael	7/16/2013	Vicki Swicegood and Sherry Spivey	Information unavailable	Clinic	Greensboro
Jessup	Kerri	1/12/2016	Wendy Yontz and Brandi Frey	Referred by Rachelle Lowery and Rebecca Surrait	Front office	Greensboro
Joel	Angel	5/12/2016	Wendy Yontz	Referred by Mary Benton	Front office	Greensboro
Johnson	Kathryn	7/15/2013	Vicki Swicegood and Sherry Spivey	Salem Solutions, LLC	Clinic	Winston-Salem
Jones	Sherdenia	7/15/2014	Rebecca Kovalich	Referred by Rodney Leftwich	Lab part time	Greensboro

Joyce	Patricia	2/1/2012	Rebecca Kovalich and Vicki Swicegood	Referred by Rebecca Kovalich	Medical records	Winston-Salem
Kelley	Brooke	2/21/2016	Wendy Yontz, Sherry Spivey, and Donna Scott	Salem Solutions, LLC	Clinic	Greensboro
Kovalich	Rebecca	12/1/2013	Dr. Spivey and Sherry Spivey	Referred by Sherry Spivey	Development of lab	Winston-Salem
Lee	LaKeesha	5/31/2016	Donna Scott and Wendy Yontz	Indeed	Clinic	Greensboro
Leftwich	Rodney	2/17/2014	Dr. Spivey and Gretchan Hawks	Referred by another Lab	Lab	Greensboro
Locklear	Karen	11/9/2015	Donna Scott and Kathryn Johnson	Salem Solutions, LLC	Clinic	Greensboro
Lowery	Rachelle	11/30/2015	Sherry Spivey, Donna Scott, and Wendy Yontz	Referred by Rebecca Surratt	Clinic	Winston-Salem
Miner	Dawn	5/18/2015	Information unavailable	Salem Solutions, LLC	Check out	Greensboro

Morgan	Christina	3/7/2016	Brandi Frey and Wendy Yontz	Salem Solutions, LLC	Billing	Winston-Salem
Munson	Amy	6/23/2014	Stephanie Vaughn	Information unavailable	Check out	Greensboro
Nagelski	Suzanne	4/30/2013	Dr. Spivey and Sherry Spivey	Referred by Rebecca Kovalich	Various administrative functions	Both offices
Noon	Wanda	7/16/2012	Vicki Swicegood, Annette Hempstead, and Suzanne Nagelski	Information unavailable	Front office	Greensboro
O'Sullivan	Maureen	8/17/2015	Betty Webb and Lisa Palmer	Salem Solutions, LLC	Medical records	Winston-Salem
Passer	Daniel	1/2/2013	Information unavailable	Information unavailable	Lab	Greensboro
Pike	Mary	5/1/2012	Annette Hempstead and Vicki Swicegood	Referred by Deborah Skinner	Front office	Both offices
Pinnix	Diamond	7/31/2017	Gretchen Hawks, Rodney Leftwich, and Wendy Yontz	Indeed posting on 6/28/2017	Lab	Greensboro

Ray	Kaylee	6/27/2016	Donna Scott and Wendy Yontz	Indeed	Clinic	Greensboro
Razo	Ruth	7/24/2017	Betty Webb and Wendy Yontz	Salem Solutions, LLC	Front office	Winston-Salem
Roche	Michael	4/10/2017	Dr. Spivey, Sherry Spivey, and Wendy Yontz	Indeed	Physician Assistant	Greensboro
Samuels	Ebony	6/25/2018	Donna Scott and Wendy Yontz	Indeed posting on 6/1/2018	Clinic	Greensboro
Sanders	Susan	6/11/2012	Vicki Swicegood	Referred by Vicki Swicegood	Billing	Winston-Salem
Schaible	Tabitha	11/3/2014	Brandi Frey, Stephanie Vaughn, Dr. Spivey, and Suzanne Nagelski	Indeed	Billing	Winston-Salem
Scheutzow	Mark	9/1/2013	Dr. Spivey	Directly contacted Dr. Spivey	MD	Both offices
Shelton	Brittany	8/26/2015	Dr. Spivey, Jamie Leonard, and Donna Scott	Referred by Medtronic	X-ray Tech	Greensboro

Shore	Maggie	6/24/2013	Vicki Swicegood, Annette Hempstead, Rebecca Kovalich, and Suzanne Nagelski	Information unavailable	Billing	Winston-Salem
Shults	Betty	11/13/2017	Betty Webb and Wendy Yontz	Referred by Wendy Yontz	Front office	Winston-Salem
Skinner	Deborah	4/9/2012	Susan Todd	Salem Solutions, LLC	CMA	Winston-Salem
Sprigg	Sheila	1/16/2013	Vicki Swicegood	Vicki Swicegood met Ms. Sprigg at a restaurant	Scheduling	Winston-Salem
Stanley	Margaret	5/6/2013	Sherry Spivey, Suzanne Nagelski, and Vicki Swicegood	Information unavailable	Clinic	Winston-Salem
Starnes	Amy	7/23/2012	Dr. Spivey	Salem Solutions, LLC	Clinic	Winston-Salem
Steagall	Kimberly	6/20/2016	Jennifer Bailey, Brandi Frey, and Wendy Yontz	Salem Solutions, LLC	Front office	Both offices

Stowers	Cathy	1/24/2013	Vicki Swicegood	Information unavailable	Clinic	Winston-Salem
Surratt	Rebecca	6/30/2014	Donna Scott and Kathryn Johnson	Donna Scott announced at CMA meeting that PPM was hiring	Clinic	Winston-Salem
Thomas	Anne	5/1/2013	Dr. Spivey	Salem Solutions, LLC	Physician Assistant	Both offices
Thomas	Brandi	12/7/2015	Brandi Frey and Wendy Yontz	Referred by Rebecca Surratt, Rachelle Lowery, and Kerri Jessup	Front office	Winston-Salem
White	Jessica	1/23/2018	Betty Webb and Wendy Yontz	Referred by LaKeesha Lee	Front office	Greensboro
Whitfield	Bonnie	2/29/2016	Brandi Frey and Wendy Yontz	Indeed	Front office	Greensboro
Wilder-Houston	Kim	8/1/2014	Rebecca Kovalich and Gretchan Hawks	Referred by Susan Epperson	Lab part time	Winston-Salem

Wilson	Sarah	6/23/2014	Michael Jacobson and Stephanie Vaughn	Information unavailable	Clinic	Greensboro
Wrege	Susan	2/20/2013	Rebecca Kovalich and Vicki Swicegood	Information unavailable	Billing	Part time from home
Yontz	Wendy	11/23/2015	Sherry Spivey and Dr. Spivey	Referred by Sherry Spivey	Human Resources	Both offices

4819-3862-2833, v. 1

**PPM Dep. Ex. 102
Topic 6 Supplemental
Information**

**FILED UNDER
SEAL**